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SOUTHERN DISTRICT OF CALIFORNIA

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TERESA WYATT, Individually and On  
Behalf of All Others Similarly Situated

'07 CV 2265 JM CAB

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

TERESA WYATT, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

CELLCO PARTNERSHIP, A Delaware General  
Partnership d/b/a VERIZON WIRELESS,

Defendant.

Case No.:

CLASS ACTION COMPLAINT

[JURY TRIAL DEMANDED]

Violations of California Civil Code  
Sections 1750 et seq. and California  
Business and Professions Code 17200 et  
seq., California Civil Code Section 1790  
et seq., and Breach of Implied  
Warranty (California Commercial  
Code Section 1234)

Plaintiff, TERESA WYATT ["WYATT"], on behalf of herself and all others similarly  
situated, all to the best of her knowledge, information, and belief formed after an investigation  
reasonable under the circumstances, which facts are likely to have evidentiary support after a  
reasonable opportunity for further investigation and discovery, except for information identified  
herein based on personal knowledge, hereby alleges against Defendant CELLCO PARTNERSHIP  
d/b/a VERIZON WIRELESS ["VERIZON"] as follows:

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**NATURE OF ACTION**

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1. VERIZON, is a major cellular phone hardware/service provider. VERIZON has wrongfully and unfairly deceived its customers by advertising and selling the expensive BlackBerry 8830 Smartphone (hereinafter the "BlackBerry 8830") with the express and implied promise that these phones were original and unaltered and had a built-in Global Positioning System (hereinafter "GPS"), with its navigation and tracking capabilities, while having had no intention of selling the BlackBerry 8830 with GPS. Instead, prior to selling the BlackBerry 8830 to its customers, VERIZON intentionally altered and disabled the 8830's native GPS so that the BlackBerry 8830 could not provide GPS navigation and tracking. GPS navigation and tracking are inherent features of the 8830 as manufactured by BlackBerry. The GPS on the BlackBerry 8830 in its unaltered, original and native state is capable of being used in conjunction with BlackBerry Maps (which is provided with the 8830 as part of the purchase price) or many free third-party programs such as Google Maps.

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2. VERIZON advertised and continues to advertise the BlackBerry 8830 as a new, unaltered, original brand name BlackBerry 8830. VERIZON and BlackBerry promoted the BlackBerry 8830 as a phone with native, built-in GPS and other fully functional BlackBerry features, such as BlackBerry Maps. The representations of VERIZON were false in that VERIZON provided its customers with BlackBerry 8830s without GPS due to the fact that VERIZON disabled the GPS prior to sale thus, altering the product. VERIZON never informed its customers that the products it was selling to them were not in original condition but were in fact altered in the manner described herein.

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3. After months of false and misleading advertising promotion and fraudulent sales,

1 VERIZON has now offered to *partially* restore the BlackBerry 8830. However, VERIZON only  
2 allows its customers GPS navigation and tracking if they subscribe to VERIZON's proprietary  
3 service package. VERIZON charges \$240 over the term of the standard customer contract for its  
4 new proprietary GPS navigation and tracking service. In short, VERIZON's conduct, as set forth  
5 herein, was part and parcel of the wireless carrier's scheme to lure consumers into buying the  
6 BlackBerry 8830 device that featured the latest mobile phone/PDA technology device, including  
7 built-in GPS. Once purchased, the customer was left with a mobile phone/PDA device that was  
8 substandard, altered and substantially and materially different from what was represented. Then, in  
9 order to use the BlackBerry 8830, VERIZON forced its customers to subscribe to its own fee-based  
10 GPS system and prohibited customers from subscribing to other less expensive or free services.

13 3. VERIZON actively concealed its deception through misinformation by leaving GPS  
14 on the BlackBerry 8830 options menu screens and in User Guides accompanying the phones.

16 4. VERIZON uniformly disseminated its misrepresentations and concealed that it  
17 altered and tampered with the BlackBerry 8830 prior to sale. Therefore, class members received  
18 uniform and materially false and misleading statements and/or omissions of material facts regarding  
19 the BlackBerry 8830s.

21 5. VERIZON's conduct, as alleged herein, violated the California Consumers Legal  
22 Remedies Act, Cal. Civ. Code Sec. 1750, *et seq.* ["CLRA"]; California's Unfair Competition Law,  
23 Cal. Bus. & Prof. Code Sec. 17200, *et seq.* ["UCL"]; California's Song-Beverly Consumer Warranty  
24 Act, Cal. Civ. Code Sec. 1790, *et seq.*, breached implied warranties, and constituted false and  
25 misleading advertising. Plaintiff therefore brings this class action under California law (and any  
26 other comparable law the Court may find applicable) for injunctive relief and to recover damages  
27 and fees and costs, as well as restitution and other equitable relief from VERIZON as a result of its  
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1 illegal scheme.

2 **JURISDICTION AND VENUE**

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4 7. Jurisdiction and venue in this Court are based upon Section 1332 of Title 28 of the  
5 United States Judicial Code (28 U.S.C. Sec. 1332) as amended by The Class Action Fairness Act of  
6 2005 (ACAFA), Pub. Law 109-2 (Feb.18, 2005). The Class involves more than 100 persons. 28  
7 U.S.C. Sec. 1332(d)(5)(A). The aggregate amount in controversy, exclusive of interest and costs,  
8 exceeds \$5,000,000. 28 U.S.C. Sec. 1332(d)(2). Plaintiff is a resident of California, and  
9 Defendants are residents of other states not including California. Therefore, minimal diversity of  
10 the opposing parties is present as required under CAFA. 28 U.S.C. Sec. 1332(d)(2)(A).  
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12 8. In connection with the acts and course of conduct alleged in this Complaint,  
13 VERIZON both directly and indirectly used the means and instrumentalities of interstate commerce,  
14 including the United States mails and interstate telephone communications, to engage in the conduct  
15 at issue herein.  
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17 9. Venue is proper in this District under Secs. 1391(a) and 1391(c) of Title 28 of the  
18 United States Code, as well as Section 1780(c) of the California Civil Code, because a substantial  
19 part of the acts and conduct charged herein, including the promotion, use, sale, marketing and/or  
20 distribution of the phones and services at issue, occurred in this District, as did the issuance of  
21 materially false and misleading representations. Plaintiff and numerous Class members purchased  
22 BlackBerry 8830s from VERIZON in this venue and were thereby injured and subjected to  
23 irreparable harm in this venue. VERIZON received substantial compensation and profits from sales  
24 of such products in this venue. Thus, VERIZON's liability arose in substantial part in this District.  
25 Plaintiff and numerous Class members used the phones substantially or primarily in this District.  
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27 VERIZON is also registered to do business, and in fact does substantial business, in this District.  
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**THE PARTIES**

10. Plaintiff, Teresa WYATT, is a natural person and resides in San Diego, California.

11. Defendant CELLCO PARTNERSHIP, is a Delaware General Partnership, with its principal place of business located in Bedminster, New Jersey, does business as VERIZON WIRELESS ["VERIZON"] and is the #2 U.S. wireless phone operator serving nearly 61 million customers nationwide. VERIZON offers mobile voice services, including push-to-talk (PTT) walkie-talkie style service. Other service offerings include text and picture messaging, multimedia content (V CAST), and mobile Web services. VERIZON began operations in 2000 when Bell Atlantic and Vodafone combined their U.S. wireless assets, including their PrimeCo partnership. VERIZON gained GTE's U.S. wireless operations when Bell Atlantic bought GTE to form Verizon Communications, which owns 55% of the company; Vodafone owns 45%.

12. At all relevant times, VERIZON was engaged in the business of distributing marketing and/or selling cellular hardware and service in California and in all 50 states under the dba of Verizon Wireless. VERIZON is authorized to do and, in fact, does business in the State of California.

13. Whenever this Complaint refers to any act or acts of VERIZON, the reference shall also be deemed to mean that the directors, officers, employees, affiliates, or agents of the responsible defendant authorized such act while actively engaged in the management, direction or control of the affairs of defendants, and each of them, and/or by persons who are the parents or alter egos of defendants while acting within the scope of their agency, affiliation, or employment. Whenever this Complaint refers to any act of defendants or VERIZON, the reference shall be deemed to be the act of each defendant, jointly and severally.

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**PLAINTIFF'S CLASS ALLEGATIONS**

14. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of herself and all others similarly situated as representative members of the following proposed Class:

All persons in California (and such other states as the Court may find appropriate) who purchased one or more BlackBerry 8830 Smartphones from Verizon Wireless and/or its authorized retailers. Within the Class is a subclass (the "Subclass") consisting of all members of the Class who are "consumers" as defined by Civil Code Sections 1761 and 1791. The Class and Subclass exclude defendants and their co-conspirators, subsidiaries, affiliates, officers, and employees, and the Court and its staff.

**NUMEROSITY OF THE CLASS**

15. The proposed Class and Subclass are so numerous that the individual joinder of all members in one action is not practical. While the exact number and the identities of Class and Subclass members are not known at this time, they can be ascertained through appropriate investigation and discovery. Plaintiff estimates the Class and its Subclass each potentially includes thousands of persons.

**TYPICALITY OF CLAIMS**

16. Plaintiff's claims are typical of the claims of the members of the Class because plaintiff and all Class members were injured by the same wrongful conduct by VERIZON as alleged herein. Plaintiff purchased a BlackBerry 8830 Smartphone from VERIZON. Plaintiff has been injured in fact and lost money or property as a result of VERIZON's conduct as alleged herein.

**EXISTENCE AND PREDOMINANCE OF  
COMMON QUESTIONS OF LAW AND FACT**

17. The common questions of law and fact raised in this litigation predominate over any questions that may affect only individual Class members. These common questions of law and fact

1 include, but are not limited to:

2 (a) Whether VERIZON should be enjoined and required to make appropriate disclosures  
3 of the existence and consequences of having tampered with and altered the BlackBerry 8830  
4 Smartphone by disabling the GPS;

5 (b) Whether VERIZON misrepresented and/or concealed that the BlackBerry 8830  
6 Smartphones they advertised, distributed and/or sold had the GPS disabled and the manner in which  
7 they were disabled;

8 (c) Whether VERIZON represented that the BlackBerry 8830 Smartphones had  
9 characteristics uses and/or benefits which they did not have;

10 (d) Whether VERIZON represented that the BlackBerry 8830 Smartphones it advertised,  
11 distributed and/or sold were new, brand-name BlackBerry 8830s and in original condition when, in  
12 fact, they had been altered;

13 (e) Whether VERIZON inserted an unconscionable provision in its contracts;

14 (f) Whether VERIZON should be enjoined to restore the BlackBerry 8830s  
15 Smartphones by re-activating the built-in GPS;

16 (g) Whether VERIZON should be enjoined tampering with, altering and/or disabling the  
17 GPS on BlackBerry 8830 Smartphones;

18 (h) Whether VERIZON's representations stating the BlackBerry 8830 Smartphone has  
19 built-in GPS are false, misleading and/or likely to deceive or otherwise constitute a violation of  
20 California law;

21 (I) Whether VERIZON's offering the BlackBerry 8830 as new when it has in fact been  
22 altered is false, misleading and/or likely to deceive or otherwise constitutes a violation of California  
23 law;



1 (J) Whether VERIZON failed to disclose other necessary material facts in order to make  
2 its statements not misleading for want of disclosure of such omitted facts;

3 (k) Whether prohibiting use of a GPS service other than VERIZON's fee-based  
4 proprietary GPS service, VZ Navigator, constitutes a violation of California law;

5 (l) Whether requiring subscription to VERIZON's fee-based proprietary GPS software,  
6 VZ Navigator, in order to reactive the built-in GPS in the BlackBerry 8830 Smartphones or restore  
7 them to their original condition is a violation of California law;

8 (m) Why and when VERIZON began to disable the GPS for the BlackBerry 8830;

9 (n) Whether VERIZON has improperly failed to notify actual and potential buyers of the  
10 true facts;

11 (o) Whether the gravity of the harm attributable to VERIZON's conduct, as alleged  
12 herein, is outweighed by any benefits attributable thereto;

13 (p) The amount of revenues and profits VERIZON received or saved and/or the amount  
14 of monies or other obligations imposed on or lost by Class and Subclass members as a result of such  
15 wrongdoing; and

16 (q) Whether plaintiff and other buyers are entitled to statutory, actual or exemplary  
17 damages, rescission or equitable relief and the appropriate measure of such relief.

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22 **ADEQUATE REPRESENTATION**

23 18. Plaintiff will fairly and adequately protect the interests of the members of the Class  
24 in that she has no irreconcilable conflicts with or interests materially antagonistic to those of the  
25 other Class members.

26 19. Plaintiff has retained attorneys experienced in the prosecution of class actions, and  
27 whom courts have previously been appointed as adequate class counsel.  
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**SUPERIORITY AND SUBSTANTIAL BENEFITS OF CLASS LITIGATION**

20. A class action is manageable and superior to other available methods for the fair and efficient group-wide adjudication of this controversy for the following reasons:

(a) It is economically impracticable for members of the Class to prosecute individual actions against VERIZON;

(b) Plaintiff is aware of no other litigation concerning this controversy already commenced by or against members of the Class;

(c) The prosecution of separate actions by the individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual Class members, thus establishing incompatible standards of conduct for VERIZON;

(d) Because of the nature of certain aspects of the relief sought, the prosecution of separate actions by individual Class members would create a risk of adjudication with respect to them that would, as a practical matter, be dispositive of the interests of the other Class or Subclass members not parties to such adjudications or would substantially impair or impede the ability of such class members to protect their interests;

(e) It is desirable to concentrate these claims in a single forum because no member of the Class has sustained damages sufficient to warrant litigation of the claims separately; and

(f) There are no difficulties likely to be encountered in the management of this class action.

21. VERIZON has acted on grounds generally applicable to the entire Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole.

22. Notice of the pendency of and any resolution of this action can be provided to the

1 Class members by individual mailed notice or the best notice practicable under the circumstances.  
2 VERIZON maintains regular contact with customers through its electronic messaging system and  
3 billing records and can provide them with notice of this action through that mechanism.  
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### 5 FACTS

6 23. Beginning since at least the Spring of 2007, VERIZON promoted the sale of new,  
7 brand name BlackBerry 8830 Smartphones on its website and through print media. A representative  
8 advertisement is attached as Exhibit "1" to this Complaint. The promotions stated "Coming Soon!"  
9 BlackBerry 8830 World Edition Smartphone [with] built-in GPS." GPS is a term readily familiar to  
10 consumers. GPS allows one to ascertain his or her exact location on a map, provides step-by-step  
11 travel directions and tracks individual's progress and travels.  
12

13 24. Research in Motion Limited ("RIM") manufactures the BlackBerry 8830  
14 Smartphone. At all relevant times, RIM advertised on both its website and in print media the  
15 BlackBerry 8830 Smartphone had built-in GPS.  
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17 25. VERIZON advertised, promoted and marketed the BlackBerry 8830 Smartphone as a  
18 new, brand name phone. Such advertising, promotion and marketing conveys to the reasonable  
19 consumer that the BlackBerry 8830 Smartphone is new, unaltered and contains all of the features  
20 and functionality of unaltered BlackBerry 8830 Smartphones. VERIZON failed to disclose in its  
21 advertising, marketing and promotion that the BlackBerry 8830 Smartphones it was selling were  
22 altered or that VERIZON had specifically tampered with the phone by disabling the GPS.  
23 VERIZON concealed and intentionally failed to disclose to the Class members (1) that VERIZON  
24 had disabled the GPS in the BlackBerry 8830 Smartphones, (2) that only VERIZON could restore  
25 the phone to its original condition by re-enabling the GPS, (3) the specific means for restoring the  
26 phone to its original condition by re-enabling the GPS, and (4) if VERIZON restored the phone to  
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1 its original condition by re-enabling the GPS, customers could obtain free navigation, mapping, and  
2 tracking, and (5) that VERIZON would only restore the phone to its original condition by re-  
3 enabling the GPS if Class members subscribed to VERIZON's fee-based proprietary software, VZ  
4 Navigator (hereinafter, (1)-(5) shall be referred to as the "Concealed Facts").

5  
6 26. In or about February 2007, Plaintiff TERESA WYATT ("WYATT") was coming to  
7 the end of her current service contract with VERIZON and was shopping for new phones and  
8 possibly a new service provider. WYATT has been a customer of VERIZON since approximately  
9 1993.

10  
11 27. WYATT was interested in having GPS on her phone to provide her with directions  
12 and was, in fact, shopping for phones that offered built-in GPS. WYATT saw print advertisements  
13 by VERIZON offering the BlackBerry 8830 Smartphone as a GPS phone. WYATT went to the  
14 VERIZON website and BlackBerry website, and there she saw additional advertisements for the  
15 BlackBerry 8830 Smartphone. The advertisements expressly stated that the BlackBerry 8830 had a  
16 built-in GPS and that the phone would soon be available soon at VERIZON retail stores. All the  
17 advertisements she saw expressly stated or implied the phones for sale were all original brand name  
18 BlackBerry 8830.

19  
20 28. On May 26, 2007, WYATT went to her area VERIZON store. In reasonable reliance  
21 on the advertisements and the representations of VERIZON, she purchased the phone (with a two-  
22 year service plan) for \$299.99, with the right to a \$100 rebate. At the time she purchased the phone,  
23 WYATT did not know nor did she have reason to suspect that VERIZON had tampered with and  
24 altered the phone by disabling the GPS.

25  
26 29. On the phone itself there are two functions listed for the GPS: "locator on" and  
27 "E911." However, when WYATT went to activate navigation and tracking services BlackBerry  
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1 Maps and Google maps, she was not able to get the services to work. Nothing on the phone,  
2 packaging or product literature that came with the phone alerted WYATT to the fact that VERIZON  
3 had tampered with the phone, disabling the GPS so that it could not operate any navigation and/or  
4 tracking service such as BlackBerry Maps or Google Maps due to a disabled GPS.  
5

6 30. WYATT contacted VERIZON and explained the problem she was experiencing.  
7 VERIZON representatives informed WYATT that the failure of the GPS to work was a "glitch."  
8 WYATT was told not to worry and that the GPS would work soon. VERIZON continued to conceal  
9 the fact it had tampered with the phone by disabling the GPS.  
10

11 31. Only well after the sale did WYATT learn that VERIZON had tampered with her  
12 phone by disabling the GPS prior to her having purchased the phone. VERIZON never informed  
13 WYATT of its conduct. WYATT also only recently learned that VERIZON would not even  
14 partially restore her phone towards its original condition by re-enabling the GPS unless she and  
15 other VERIZON customers subscribed to VERIZON's fee-based proprietary navigation, mapping  
16 and tracking program, VZ Navigator. Even then, the GPS could be used only with VZ Navigator.  
17 VERIZON's "offer" to only partially restore the BlackBerry 8830 Smartphone in exchange for an  
18 additional "fee" is the classic "bait and switch" tactic that has been illegal for years, and is contrary  
19 to VERIZON's prior representations.  
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22 32. During the relevant time period, VERIZON disseminated uniformly similar  
23 advertisements and promotional literature for the BlackBerry 8830 Smartphones. VERIZON  
24 uniformly advertised the same offers through a variety of means, such print and electronic media  
25 and by its sales staff.  
26

27 33. VERIZON has held Class members accountable for continuing obligations that were  
28 not legally due and/or retained or collected monies that were not owed due to the false or misleading

1 nature of such representations, and has failed to provide unaltered BlackBerry 8830s or returned  
2 them to their full capacity to the detriment and injury of plaintiff and members of the Class and  
3 Subclass who lost money or property and/or were injured in fact as a result thereof.

4  
5 34. As a result of the foregoing, VERIZON has systemically engaged in a series of  
6 transactions in violation of California law and other applicable law.

7 35. VERIZON has a duty to disclose the Concealed Facts because, *inter alia*, (1)  
8 VERIZON itself considers GPS on the BlackBerry 8830 Smartphone an essential part of the  
9 product; (2) the Concealed Facts are material and known to VERIZON, but are not accessible to  
10 consumers purchasing the phones, (3) VERIZON has a duty to disclose the Concealed Facts in order  
11 to correct its false and misleading misrepresentations, and reasonable consumers are likely to be  
12 deceived in the absence of such disclosures (e.g., that the BlackBerry 8830 Smartphones being sold  
13 are new and/or that phones have built-in GPS); (4) because the concealed facts are integral to a  
14 transaction that was intended to affect WYATT and the Class, the harm to WYATT and the Class  
15 was foreseeable, and VERIZON's conduct is closely connected to the injuries suffered, and (5) the  
16 substantive legal provisions under which WYATT brings her claims herein, including without  
17 limitation California's UCL, California's CLRA, California Commercial Code and other similar  
18 statutory enactments of other states, impose on VERIZON a duty not to engage in unfair, fraudulent  
19 and deceptive business practices and not to conceal facts the disclosure of which is necessary to  
20 avoid violating their provisions.

21  
22 36. WYATT and the Class members had their rights infringed upon, were injured in fact  
23 and/or lost money or property as a result of VERIZON's failure to comply with its obligations  
24 imposed under the applicable laws referenced herein.

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26 37. WYATT and the Class members have not received a return of the improperly paid or  
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1 retained monies, or a product that conforms with VERIZON's representations, despite demand  
2 therefore and are currently owed such amounts or relief, plus any direct or exemplary damages,  
3 restitution, interest or other legal or equitable monetary relief required to be paid to them by law.

4  
5 38. VERIZON's failure to abide by its legal obligations is ongoing and continues to this  
6 date.

7 **COUNT I**

8 **Violation of Cal. Civ. Code Sec. 1750, *et seq.***  
9 **(The California Consumers Legal Remedies Act)**  
10 **and Comparable Consumer Protection Laws**

11 39. Plaintiff hereby incorporates by reference, as if fully set forth herein, each and every  
12 allegation contained in Paragraphs 1 through 38, inclusive and further alleges as follows: Count I is  
13 brought against VERIZON by WYATT individually and on behalf of the Subclass only.

14 40. The CLRA is a comprehensive statutory scheme prohibiting deceptive practices in  
15 connection with the advertising, distribution and sale of goods, property or services to consumers  
16 primarily for personal, family or household purposes.

17 41. VERIZON's transactions, policies, practices, acts and/omissions as alleged herein,  
18 were intended to and/or did result in the sale of the products and services here at issue to Subclass  
19 members primarily for personal, family or household purposes. VERIZON's transactions, policies,  
20 practices, acts and/omissions, as alleged herein, violated and continue to violate the CLRA (and  
21 other comparable and relevant consumer protection laws) in the following respects:

22 (a) VERIZON violated Section 1770(a)(5) of the CLRA by misrepresenting and/or  
23 omitting material facts that the products and/or services in question have characteristics, benefits  
24 and/or uses that they do not have;

25 (b) VERIZON violated Section 1770(a)(6) of the CLRA by misrepresenting and/or  
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1 omitting material facts that products and/or services in question are original or new when they are  
2 altered, reconditioned, or used;

3 (c) VERIZON violated Section 1770(a)(7) of the CLRA, by misrepresenting and/or  
4 omitting material facts that the products and services in question are of a particular standard,  
5 quality, or grade, or that goods are of a particular style or model, if they are of another;

7 (d) VERIZON violated Section 1770(a)(9) of the CLRA by advertising the products and  
8 services at issue with the intent not to sell them as advertised or represented;

9 (e) VERIZON violated Section 1770(a)(16) of the CLRA by representing that the  
10 products and services were supplied in accordance with previous representations when they were  
11 not; and

12 (f) VERIZON violated Section 1770(a)(19) of the CLRA by unilaterally imposing  
13 contractual provisions in contravention of what the law required. Specifically, VERIZON inserted  
14 unconscionable provisions in an agreement, namely, a waiver of class action rights and a waiver of  
15 the right to jury trial.

16 42. As a result, members of the Subclass have had their legal rights infringed upon and  
17 suffered irreparable harm, entitling them to both injunctive relief and restitution as detailed herein.

18 43. In compliance with the provisions of Section 1782 of the California Civil Code,  
19 Plaintiff has given written notice to VERIZON of the intention to file an action for damages under  
20 the CLRA. Plaintiff also requested VERIZON offer an appropriate correction plus interest and  
21 other appropriate relief to all affected consumers.

22 44. If VERIZON fails, within 30 days after the notice sent pursuant to Section 1782, to  
23 adequately respond to plaintiff's demand to correct or otherwise rectify the wrongful conduct  
24 described herein on behalf of all Subclass members, plaintiff will seek for all Subclass members all  
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1 actual and exemplary damages permitted for violations of the CLRA (and any other comparable  
 2 statutes the Court finds applicable), including statutory damages of up to \$1,000 per consumer  
 3 and/or up to \$5,000 per consumer who qualifies as a "senior citizen" under the CLRA. In addition,  
 4 plaintiff seeks and is entitled to, pursuant to Section 1780(a)(2) of the California Civil Code, an  
 5 order enjoining the above-described wrongful acts and practices of VERIZON, providing restitution  
 6 and/or other appropriate equitable relief to all members of the Subclass who are so entitled, ordering  
 7 the payment of costs and attorneys' fees, and such other relief as deemed appropriate and proper by  
 8 the Court pursuant to Section 1780 of the California Civil Code. To the extent VERIZON claims  
 9 such relief has been waived by agreement, pursuant to Section 1751 of the California Civil Code,  
 10 such claims are contrary to public policy and by statute are void.  
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## 13 COUNT II

### 14 **Violation of Cal. Bus. & Prof. Code 17200, *et seq.* and Comparable Consumer Protection** 15 **Laws Prohibiting Unlawful, Unfair or Fraudulent Business Acts and Practices**

16  
 17 45. Plaintiff hereby incorporates each and every allegation contained herein as if fully  
 18 alleged herein and further alleges as follows: Count II is brought against VERIZON by plaintiff  
 19 individually and on behalf of the Class.  
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21 46. VERIZON's acts and practices as alleged herein constitute acts of unfair competition  
 22 as defined by California's UCL. VERIZON has engaged in unlawful, unfair or fraudulent business  
 23 acts and/or practices within the meaning of the UCL. Such conduct also violates other applicable  
 24 state consumer protection laws, which laws do not materially conflict with the UCL.  
 25

26 47. The UCL prohibits "unlawful" business practices and proscribes "anything that can  
 27 properly be called a business practice and that at the same time is forbidden by law." People v.  
 28 McKale (1975) 25 Cal.3d 626, 634; Barquis v. Merchants Collection Ass'n (1972) 7 Cal.3d 94, 113.

1           48. VERIZON has engaged in "unlawful" business practices by making the  
2 misrepresentations and/or omissions alleged herein. The business acts and practices alleged herein  
3 violated numerous provisions of law, including, in addition to the foregoing, and *inter alia*,  
4 Sections 1304 and 2314 of the California Commercial Code, Section 1670.5 of the California Civil  
5 Code, Sections 1709 and 1710 of the California Civil Code, the CLRA, the UCL (Section 17500 of  
6 the California Business and Professions Code), the Song-Beverly Consumer Warranty Act (Section  
7 1790 *et seq.* of the California Civil Code), and the FTC Act, 15 U.S.C. Sec. 45(n). Plaintiff reserves  
8 the right to identify additional violations of law as further investigation warrants.  
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11           49. The UCL prohibits "unfair" business practices. By engaging in the conduct alleged  
12 herein, VERIZON engaged in "unfair" business acts and/or practices. Specifically, the justification  
13 for selling such products or services based on the business acts and practices alleged herein is  
14 outweighed by the gravity of the resulting harm, particularly considering the available alternatives,  
15 and/or offends public policy, is immoral, unscrupulous, unethical and offensive, or causes  
16 substantial injury to consumers and competitors.  
17

18           50. By engaging in the above-described conduct, VERIZON has engaged in a  
19 "fraudulent" business act or practice in that the business acts and practices described above had a  
20 tendency and likelihood to deceive, and have in fact deceived, plaintiff and other Class members to  
21 their detriment.  
22

23           51. VERIZON need only to have violated one of the three provisions set forth above to be  
24 strictly liable under this Count.

25           52. VERIZON's unlawful, unfair or fraudulent business acts and practices alleged herein  
26 continue to this day and present a threat to the Class in that VERIZON has failed to comply with its  
27 previous representations, publicly acknowledge the wrongfulness of its actions and refused to  
28

1 provide the complete relief required by the statute. VERIZON continues to disseminate incorrect  
2 and misleading information regarding the BlackBerry 8830 Smartphone and GPS.

3           53. Pursuant to Section 17203 of the California Business & Professions Code (and any  
4 other comparable statutes the Court finds applicable), WYATT, individually and on behalf of the  
5 Class, seeks an order of this Court prohibiting VERIZON from continuing to engage in the  
6 unlawful, unfair and/or fraudulent business acts or practices set forth in this Complaint and from  
7 failing to fully disclose the true facts as set forth herein, restoring Class members' phones to their  
8 original condition, re-enabling the GPS and/or ordering VERIZON to engage in a corrective  
9 informational campaign. Plaintiff additionally requests an order from the Court requiring that  
10 VERIZON provide complete equitable monetary relief, including that they disgorge and return or  
11 pay VERIZON's ill-gotten gains and such other monies as the trier of fact may deem necessary to  
12 deter such conduct or prevent the use or enjoyment of all monies wrongfully obtained either directly  
13 or indirectly, and/or pay restitution, including cancellation of the above obligations or the return of  
14 any monies paid to VERIZON that would not otherwise have been paid had the true facts been  
15 disclosed by VERIZON or if they had complied with their legal obligations and previous  
16 representations, plus any interest earned by VERIZON on such sums. Such an order is necessary so  
17 as to require VERIZON to surrender all money obtained either directly or indirectly through such  
18 acts of unfair competition, including all monies earned as a result of such acts and practices, so that  
19 VERIZON is prevented from benefiting or profiting from the practices that constitute unfair  
20 competition or the use or enjoyment by VERIZON of any monies resulting from the sale of such  
21 goods or services and/or to ensure the return of any monies as may be necessary to restore to any  
22 person in interest who lost money or property as a result of such acts or practices any money or  
23 property which may have been acquired by means of such acts of unfair competition. Plaintiff also  
24  
25  
26  
27  
28

1 requests the Court order that an asset freeze or constructive trust be imposed over all monies that  
2 rightfully belong to members of the Class. In addition, plaintiff and the Class members are entitled  
3 to reasonable attorneys' fees and litigation costs as prayed for below.  
4

5 **COUNT III**

6 **Violation of Cal. Civ. Code Sec. 1790 *et seq.*,  
7 (The Song-Beverly Consumer Warranty Act)  
8 and Comparable Consumer Protection Laws**

9 54. Plaintiff hereby incorporates each and every allegation contained herein as if fully  
10 alleged herein and further alleges as follows: Count III is brought against VERIZON by plaintiff  
11 individually and on behalf of the Subclass only.

12 55. Pursuant to the Song-Beverly Consumer Warranty Act (Section 1790 *et seq.* of the  
13 California Civil Code) ("Song-Beverly"), the goods at issue herein (BlackBerry 8830 Smartphone)  
14 constitute "consumer goods" as defined by Section 1791(a) of Song-Beverly.  
15

16 56. Plaintiff and the Subclass members are "buyers" of "consumer goods" within the  
17 meaning of Sections 1791(a)-(b) of Song-Beverly. VERIZON is a "seller" and "retailer" pursuant  
18 to Section 1791(l) of Song-Beverly.

19 57. An implied warranty that BlackBerry 8830's were merchantable arose by operation  
20 of law as part of the sale to plaintiff and the Subclass members.  
21

22 58. VERIZON delivered the goods to the plaintiff and the Subclass members with  
23 defects and non-conformities and thereby breached its implied warranty of merchantability. The  
24 defects and nonconformities substantially impair the value and functionality of the goods, *to wit*:

25 (a) The goods are not of the same quality as those generally acceptable in the  
26 trade;  
27

28 (b) The goods are not fit for the ordinary purposes for which such goods are

(c) The goods do not measure up to the promises or facts stated on the container or label and

(d) The goods are not fit or suitable for the particular purpose for which they are used.

59. As a result of VERIZON's breach, plaintiff and the Subclass members are entitled to damages in the amount of the purchase price, the cost of repair and/or the difference in value of what was received and what the goods are worth. Plaintiff and Subclass members are also entitled to all incidental, consequential and general damages, as well as other relief, resulting from VERIZON's failure to comply with its obligations under Song-Beverly. Plaintiff and Subclass members are also entitled to attorneys' fees and reasonable litigation costs as prayed for below.

60. VERIZON was aware of the defects and non-conforming nature of the goods at all relevant times, and plaintiff and the Subclass members have notified VERIZON of the defects non-conformities and their right to a remedy. VERIZON has refused to provide any relief and is therefore, in violation of their duties under Song-Beverly.

**Breach of Implied Warranty and Duty of Good Faith, Cal. Comm. Code §§ 2314, 1304 and other Comparable U.C.C. Provisions**

61. Plaintiff hereby incorporates each and every allegation contained herein as if fully alleged herein and further alleges as follows: Count IV is brought against VERIZON by plaintiff individually and on behalf of the Class.

62. VERIZON is a “merchant” and “seller” with respect to the BlackBerry 8830 within

1 the meaning of California Commercial Code §§ 2103 and 2104(1).

2 63. Plaintiff and the Class members purchased BlackBerry 8830s from VERIZON.

3 64. An implied warranty that the BlackBerry 8830s were merchantable arose by  
4 operation of law as part of the sales to plaintiff and the Class members pursuant to California  
5 Commercial Code §2314.  
6

7 65. A duty of good faith and fair dealing arose by operation of law as part of the  
8 negotiations and sales to plaintiff and the Class members pursuant to California Commercial Code  
9 §1304.

10 66. VERIZON breached the implied warranty of merchantability and its duty of good  
11 faith and fair dealing in that the goods were not in merchantable condition when sold or at any time  
12 thereafter, *to wit*:

- 13 (i) the BlackBerry 8830s are not of the same quality as those generally acceptable  
14 in the trade; and  
15 (ii) the BlackBerry 8830s are not fit for the ordinary purposes for which such  
16 goods are used; and  
17 (iii) the BlackBerry 8830s do not measure up to the promises or facts stated on the  
18 container or label.

19 67. VERIZON further breached its duty of good faith and fair dealing by failing to  
20 disclose a known material and hidden defect in the BlackBerry 8830s pursuant to California  
21 Commercial Code §2314, cmt. 3.

22 68. Plaintiff and the Class members have notified VERIZON of the defects in the  
23 BlackBerry 8830s and other breaches by VERIZON on or before November 30, 2007.

24 69. As a result of VERIZON's breach of the implied warranty of merchantability and its  
25 duty of good faith and fair dealing, plaintiff and the Class members have suffered damages  
26 representing the cost of repair and/or the difference between the value of the BlackBerry 8830s as  
27 delivered and the value they would have had if they had been as warranted.  
28

70. VERIZON's breach also caused plaintiff and the Class members' incidental and consequential damages.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff, individually and on behalf of the Class and Subclass, prays for judgment and relief against VERIZON as follows:

1. An order certifying that the action may be maintained as a class action and that appointing plaintiff and her counsel as Class and Subclass Representative and Class and Subclass Counsel, respectively;

2. Compensatory damages and restitution in an amount to be proven at trial, including any damages or restitution as may be provided for by statute;

3. Punitive Damages per class member on an individual basis;

4. A temporary, preliminary and/or permanent order providing for equitable and injunctive relief, including, but not limited to, an order of this Court prohibiting VERIZON from refusing to immediately cease all acts of unfair competition and enjoining VERIZON from continuing to conduct business via the illegal acts or practices as alleged herein, from refusing to engage in a corrective advertising and information campaign regarding their policies, and imposing an asset freeze or constructive trust over all illegally obtained monies;

5. An order requiring disgorgement and/or imposing a constructive trust upon defendants' ill gotten monies and freezing defendants' assets and requiring defendants to pay restitution to plaintiff and all members of the class and to restore to the class all funds acquired by means of any act or practice declared by this Court to be an unlawful, fraudulent or unfair business act or practice, a violation of laws, statutes or regulations, or constituting unfair competition or false, untrue, deceptive or misleading advertising;

6. Reasonable attorneys' fees pursuant to C.C.P. Sec. 1021.5, Cal. Civ. Code Sec.



1 1780(d), Cal. Civ. Code Sec.1794 and/or any other statute or authority authorizing an award of  
2 attorneys' fees and costs;

3 7. Costs of this suit; and

4  
5 8. Other relief that this Court deems just and proper.

6 **JURY DEMAND**

7 Plaintiff demands a trial by jury on all causes of action so triable.  
8

9  
10 DATED: November 30<sup>th</sup>, 2007

THE COHEN LAW FIRM

11  
12 By:



Jordan M. Cohen

Roy E. LaFrancis Jr.

Attorneys for Plaintiff

13  
14 TERESA WYATT, Individually and On  
15 Behalf of All Others Similarly Situated  
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Verizon Wireless

# CONNECT

**ON THE LOT**

**TV CAST Exclusive:  
Backstage with Mark Burnett!**

**Get Justin Timberlake  
on your phone!**

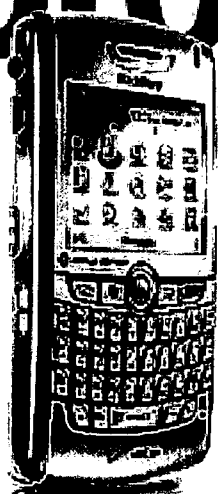
**New JT-TV available exclusively  
from Verizon Wireless**

**FERGIE TV: The Inside Scoop**

**verizon**wireless

SPRING 2007

# browsing on the go



COMING SOON

## BlackBerry® 8830

### World Edition smartphone

Do Your Best Work, Globally

- Sleek, performance-driven smartphone.
- Roams on GSM/GPRS networks so you can work globally.
- Email, built-in GPS, Web browser, and instant messaging capabilities.
- Organizer, high-capacity battery, and media player.



## Verizon Wireless

### PN-820

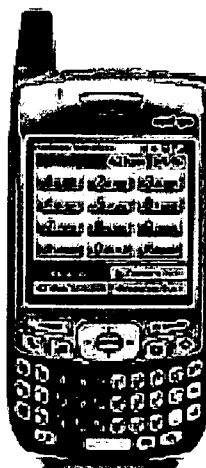
#### Broadband Smartphone With Camera

- Flip-style design.
- Windows Mobile® 5.0.
- Wireless email.
- Built-in speakerphone.
- Bluetooth headset-capable.

## Treo™ 700p

### A Must-Have for Busy Moms

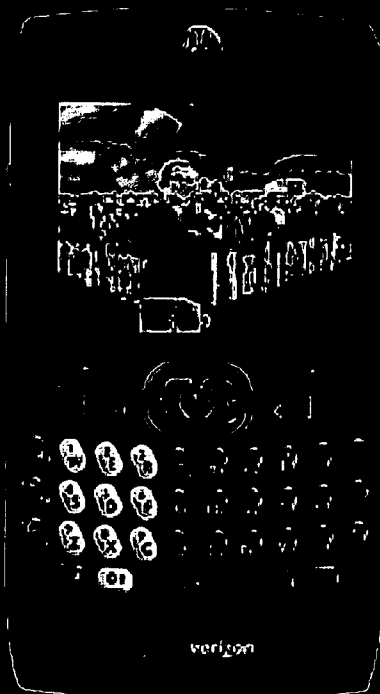
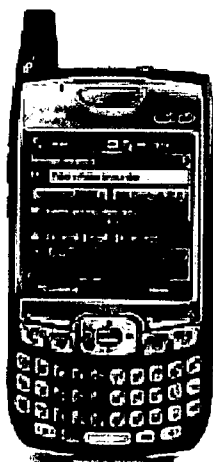
- The one device that fits the way you live.
- Full-featured smartphone keeps your life organized and working smoothly.
- Keep tabs on both work and personal email; stay on top of family schedules, even on a business trip.
- Access the Web to check out new restaurants and shops.
- 1.3-megapixel digital camera helps you capture memories as they happen.



## Treo™ 700w

### Multi-tasking Made Easy

- All-in-one smartphone with email, organizer, Web browser, and expanded memory.
- 1.3-megapixel camera.
- Bluetooth headset-capable.
- Equipped with Windows Mobile 5.0.
- BroadbandAccess Connect-capable.



## Motorola Q

### MOTOROLA Q (Black)

#### EXCLUSIVELY FROM VERIZON WIRELESS

Motorola Q is a sleek, slim design that fits the way you live. It's a full-featured smartphone that keeps your life organized and working smoothly. It's a must-have for busy moms who want to stay on top of family schedules, even on a business trip.

- Super-slim design.
- Full email capability.
- 1.3-megapixel camera with flash.
- Speakerphone.
- Bluetooth stereo headset capable.
- BroadbandAccess Connect capable.

\* If more than 1 GB of memory is used, we presume use is for non-permitted purposes and reserve the right to limit throughput or terminate service immediately.

† Two-year minimum term required on \$59.99 BroadbandAccess plan with any qualifying voice calling plan; \$59.99 BroadbandAccess plan not available with prepaid voice calling plans. If your voice calling plan is terminated for any reason, the monthly access on your Unlimited BroadbandAccess plan will be increased to \$79.99. Only use \$59.99 BroadbandAccess plan may be added for each voice calling plan maintained by customer.

Our Surcharges (incl. Fed. Univ. Svc. of 9.7% of Interstate & Int'l telecom charges (rates quarterly), 4% Regulatory & 70% Administrative/fees, & others by area) are not taxes (Details: 1-888-684-3880); gov't taxes and our surcharges could add 4%-34% to your bill. Activation fee: \$25 for \$59.99 BroadbandAccess plan.

IMPORTANT CONSUMER INFORMATION: Subject to Customer Agmt., Calling Plan, & credit approval. Up to \$100 early termination fee. Requires compatible PC card (purchased separately). Speed claim based on our network tests with 5 MB FTP data files without compression. Actual throughput speed varies. If more than 5 GB of memory is used, we presume use is for non-permitted uses and will terminate service; see brochure for details. BroadbandAccess is available to more than 200 million people in 242 major metropolitan areas in the U.S. Offers & coverage not available everywhere. Network details & coverage maps at vzw.com. © 2007 Verizon Wireless

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

TERESA WYATT, Individually and On Behalf of All Others  
Similarly Situated,

(b) County of Residence of First Listed Plaintiff **SAN DIEGO**  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

CELLCO PARTNERSHIP, A Delaware General  
Partnership and a VERIZON WIRELESS

County of Residence of First Listed Defendant **NEW CASTLE**  
SOUTHERN DISTRICT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

## (c) Attorney's (Firm Name, Address, and Telephone Number)

THE COHEN LAW FIRM 858-689-4736  
10650 TREENA STREET, STE. 203  
SAN DIEGO, CA 92131

## Attorneys (If Known)

DEPUTY

'07 CV 2265 JM CAB

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                                       |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (139 Sff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc.<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Custom or Challenge 12 USC 3410<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes<br><input checked="" type="checkbox"/> 890 Other Statutory Actions |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 440 Other Civil Rights  | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> Habeas Corpus:<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act   | <b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS Third Party 26 USC 7609   |

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.  
Do not cite jurisdictional statutes unless diversity.)

Violations of CA Civ. Code Sec. 1750, et seq., Cal. B&P Code 17200 et seq., Cal. Civ. Code 1790 et seq., and breach of Implied Warranty, Cal. Comm. Code 1234

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S)

(See instructions):

IF ANY

JUDGE

DOCKET NUMBER

DATE November 30, 2007

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 144961

AMOUNT \$350

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 144961 - BH**

**November 30, 2007  
15:48:54**

**Civ Fil Non-Pris**

USAO #: 07CV2265 CIVIL FILING  
Amount.: \$350.00 CK  
Check#: BC# 4530

**Total-> \$350.00**

**FROM: WYATT V. CELLCO PARTNERSHIP  
CIVIL FILING**